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*Attorney for Defendants City of Phoenix,
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Kashane Kirk, *et al.*,

Plaintiffs,

vs.

City of Phoenix, *et al.*,

Defendants.

Case No.: CV 23-00836-MTL (CDB)

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION TO EXTEND
ANSWER DEADLINE**

Defendants City of Phoenix, Phoenix Police Department, Chief Michael Sullivan, Autumn Ladines, Officer Antonio Garza, Sergeant Eric Roy, Jaclyn Ravelo, Steven Ramirez and Jonathan Howard (collectively referred to hereinafter as "Defendants"), by and through counsel undersigned, hereby file their Response to Plaintiffs' Motion to Extend Answer Deadline ("Plaintiffs' Motion"), filed on October 20, 2023. While Defendants do not oppose Plaintiffs' Motion, Defendants file this Response to provide a complete background regarding why Plaintiffs' Motion was filed and in light of this Court's prior Order extending the Defendants' deadline for their responsive pleading to today, while indicating no further extensions would be granted. (Dkt. 22).

On September 21, 2023, Defendants emailed Plaintiff's counsel a detailed list of arguments/issues that Defendants intended to raise in their lengthy Motion to Dismiss

1 Plaintiffs' Complaint. Because lead counsel for Defendants was leaving the Country the
2 following week for two weeks, and Plaintiff's counsel needed time to analyze the issues raised
3 in the email, the parties filed their joint motion to extend the deadline for Defendants to file
4 their initial responsive pleading just one additional time.

5 Counsel for the parties were then not able to get on the telephone until Tuesday,
6 October 17, 2023, after Defendant's counsel returned from vacation and Plaintiff's counsel
7 had adequate time to review the multiple positions Defendants provided as bases for their
8 anticipated Motion to Dismiss. On that call, counsel discussed the various issues raised in
9 Defendants' September 21st email and worked together to determine how to narrow and limit
10 the issues in this matter. In that discussion, and to that end, Plaintiffs' counsel agreed that he
11 would file a motion to amend Plaintiffs' Complaint on October 20, 2023, with a proposed
12 amended complaint, to revise many aspects of his operative complaint and hopefully obviate
13 the need for a motion to dismiss, at least in large part.

14 Because Plaintiffs agreed that they would move to amend their initial Complaint by
15 October 20, 2023, Defendants had no reason to file their motion to dismiss, which they have
16 already prepared and just need to finalize, as the complaint to which the responsive pleading
17 applied would be replaced/mooted by Plaintiffs' amended complaint. And had Plaintiffs
18 decided not to amend their Complaint, Defendants would have been in a position to timely
19 file their lengthy motion to dismiss.

20 However, on October 20, 2023, at the same time this afternoon that Defendants were
21 reaching out to Plaintiffs' counsel to inquire about the status of their anticipated motion to
22 amend and proposed amended complaint, Plaintiffs' counsel emailed requesting that
23 Defendants agree to a stipulation to extend the answer deadline further or agree not to oppose.
24 While Defendants are not opposed to extending the deadline simply to allow Plaintiffs a little
25 additional time to get their amended complaint on file, versus needing more time themselves
26 for their responsive pleading, they are cognizant of the Court's prior admonishment that the

1 responsive pleading deadline **will not be extended for any reason regardless of any**
2 **stipulation of the parties**” (Dkt. 22) (emphasis in original). Defendants’ counsel pointed this
3 out to Plaintiffs’ counsel, who then revised their Motion to explain the reasons they need more
4 time for their amended complaint, but still decided to file the Motion. As such, Defendants
5 are filing this response to simply point out that they do not need more time for their responsive
6 pleading but have stood down only based on Plaintiffs’ counsel’s statement they would file
7 the amended complaint by today, but then learned this afternoon that Plaintiffs needed a few
8 more days to file the amendment. Defendants also did not want to needlessly file their lengthy
9 motion to dismiss Plaintiff’s voluminous original Complaint, when Plaintiffs have avowed
10 they clearly intend to amend their Complaint and narrow the issues in this matter in hopes of
11 obviating the need for Defendants’ motion to dismiss, at least in large part.

12 Therefore, Defendants respectfully respond they do not have any opposition to giving
13 Plaintiffs until Wednesday, October 25, 2023, to file their amended complaint (and they have
14 already voluntarily dismissed three (3) City of Phoenix Defendants following counsel’s
15 discussion regarding the same), thus obviating the need for Defendants to file their lengthy
16 motion to dismiss the current operative complaint. If this Court has any concern about
17 Defendants’ decision to stand down, in light of Plaintiffs’ counsel’s representations about
18 amending their complaint and in an effort to avoid filing an unnecessary and lengthy
19 responsive pleading, Defendants can immediately file their motion to dismiss, and they offer
20 their apologies in advance if this Court disagrees with Defendants’ approach herein.
21 Defendants will also be in a position to quickly file their responsive pleading, depending on
22 the contents of the amended complaint, since they have already prepared the draft motion to
23 dismiss, as well as a draft answer to the current complaint.

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25 ///
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1 RESPECTFULLY SUBMITTED this 20th day of October, 2023.

2 BROENING OBERG WOODS & WILSON, P.C.

3 By /s/ Sarah L. Barnes

4 Sarah L. Barnes

5 Kelley M. Jancaitis

6 *Attorney for Defendants City of Phoenix,*

7 *Sullivan, Ladines, Garza, Roy, Ravelo,*

8 *Ramirez and Howard*

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2023, I electronically transmitted the foregoing with the Clerk of the Court using the CM/ECF system for filing, with copies submitted electronically to the following recipients:

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